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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,060	07/25/2001	Sigrid Cornelis	4976US	6077
24247	7590	10/30/2003	EXAMINER	
TRASK BRITT P.O. BOX 2550 SALT LAKE CITY, UT 84110			SULLIVAN, DANIEL M	
			ART UNIT	PAPER NUMBER

1636

DATE MAILED: 10/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/915,060

Applicant(s)

CORNELIS ET AL.

Examiner

Daniel M Sullivan

Art Unit

1636

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☒ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

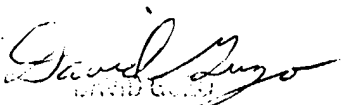
Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 4, 11, 15, 23-25 and 27-40.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

  
DAVID M. SULLIVAN  
PRIMARY EXAMINER

Continuation of 2. NOTE: The proposed amendments limit the nucleic acid of claims 4 and 25, and claims depending therefrom, to a chimeric nucleic acid molecule consisting of a nucleic acid sequence selected from various disclosed sequences. However, the sequences set forth in the application as SEQ ID NO: 1 and 4-7 are not disclosed as being chimeric. Thus, the proposed amendments raise new issues under 35 U.S.C. §112, second paragraph.

The proposed amendments limit the nucleic acid of claim 37, and claims depending therefrom, to a recombinant nucleic acid molecule consisting of SEQ ID NO:1, 4-6 or 7 comprised within a chimeric nucleic acid molecule. First, Applicant has not indicated where the originally filed specification teaches a nucleic acid having the limitations of claim 37, and the Examiner is unable to find the nucleic acid of claim 37 in the original disclosure. Therefore, the proposed amendment raises the issue of new matter. Furthermore, it is not clear whether claim 37 is directed only to the nucleic acid molecule consisting of SEQ ID NO: 1, 4-6 or 7, which is comprised within a chimeric nucleic acid molecule, or whether the claim is directed to the entire chimeric nucleic acid molecule, which comprises a nucleic acid consisting of SEQ ID NO: 1, 4-6 or 7..